

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
OCTOBER 2, 2012**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Scott Hollinger, Mark Hash, Cal Dyck and Gary Krueger. Erik Mack, Alex Hogle and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 5 people in the audience.

**APPROVAL OF
MINUTES**

Klempel motioned and Krueger seconded to approve the August 7, 2012 minutes. The motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**NORPO CORP.
(FCU 12-09)**

A request by Don Adams on behalf of Norpo Corp. for a Conditional Use Permit to establish multiple principal uses on a single lot. The applicants, End of the Trail Trading Post, have an existing pawn shop and are proposing to add automobile sales. The property is located at 1192 East Idaho Street, within the Willow Glen, B-2 (General Business) Zoning District.

**POINT OF
ORDER**

Klempel stated she needed to recuse herself from the second agenda item.

STAFF REPORT

Mack reviewed FCU 12-09 for the board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

None.

**PUBLIC
COMMENT**

Jim Peterson, neighboring property owner, was against the application.

**STAFF
REBUTTAL**

None.

**BOARD
DISCUSSION**

The board and staff discussed what business existed on the property previously, if the automobile use was an existing or a new use, what defined multiple principle uses, how signing was handled with multiple uses, if the conditional use permit ran with the non conforming structure or property and if a conditional use expired. They also discussed the blurring of the line between lending with a pawn shop and loaning on a used auto sale, if that was an issue, how the number of parking spaces was arrived at and what happened if the applicant changed the building structure taking into consideration its grandfathered status.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCU 12-09)**

Krueger made a motion seconded by Hash to adopt staff report FCU 12-09 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FCU 12-09)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO STRIKE
CONDITION #5
AND APPROVE
(FCU 12-09)**

Krueger made a motion seconded by Hash to strike condition #5 and approve FCU 12-09.

**BOARD
DISCUSSION**

The board and staff discussed if the applicant was in compliance with their approaches and if condition #5 was appropriate.

**ROLL CALL TO
STRIKE
CONDITION #5
AND APPROVE
(FCU 12-09)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hollinger stated the applicant would be receiving information from the Planning Office. He said as an aside concerning public comment on the issue of multiple uses, the applicant would need to go through the whole process again if they wanted to add an additional use.

**JOSEPH & RON
KLEMPPEL
(FCU 12-07)**

A request by Joseph & Ron Klempel for a Conditional Use Permit for the expansion of an existing gravel pit operation previously permitted by a conditional use permit (FCU-05-15) for 'Extractive Industry' within the Bigfork, SAG-5 (Suburban Agricultural) Zoning District. The applicants are proposing to expand the current use by increasing the acreage of the existing gravel pit by 7.7 acres, modifying the hours of operation to include Saturday, and including portable wash plant, screening facilities, and a 'grizzly' sorter to the current crushing and asphalt batching operations. The property is located at 455 Coverdell Road.

STAFF REPORT

Hogle reviewed FCU 12-07 for the board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

Gina Klempel, 1484 Ashley Lake Road, was available for questions. She wasn't aware of any complaints, the operation was simple and clean. The well was 200 gallons per minute and the recovery time was .25 hours.

Jeff Claridge, 131 Taelor Road, vice president of LHC, spoke about the relationship between the well and the wash plant and how the process worked.

**BOARD
QUESTIONS**

Hollinger and Claridge discussed the amount of water needed, the size of the recovery ponds, the on demand basis of the washer and the cleanliness of the gravel from the pit which meant not much needed to be done to clean it.

**PUBLIC
COMMENT**

Clarice Ryan, 253 Pine Needle Lane, Bigfork, was for the application.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

None.

**BOARD
DISCUSSION**

Hollinger did not see a problem with using the well water for a washer plant.

Krueger and Hogle discussed if this CUP would supersede the preceding CUPs issued on the property.

The board and staff discussed at length conditions which involved the process for changes or modifications of the approved use or site plan to the CUP once issued, options for that process and possible amendments to the conditions.

Hollinger and Klempel discussed condition #12 which involved complying with the regulations concerning DEQ and DNRC and if the condition was attainable.

The board and staff debated at length other conditions which involved permits etc. from other departments and how they should be included or referenced in the file for the CUP.

Keith Engebretson, LHC, reviewed for the board the process for a DEQ permit for the board's information.

The board and staff continued their previous discussion on the conditions concerning permits from other departments.

Krueger again raised the question if all other CUPs and their conditions issued on the property would be null and void if the application for the CUP before them was approved.

The board and staff discussed in detail what would happen to the previous CUPs and their conditions if this application was approved.

Hash and Hogle discussed the condition of blasting which was in previous CUPs and not present in the current application.

Hash and staff also discussed the hours of operation of a previous CUP and how the currently proposed hours would affect the public.

Dyck suggested ways to clarify the conditions which applied to the pit especially since there had been previous CUPs.

The board and Hogle discussed weaknesses in the zoning regulations concerning additional CUPs on a specific property, how staff reviewed the conditions for the current application, and how to protect the integrity of what had been done in the past CUPs.

Hash asked the applicants if there was going to be any blasting in the pit.

The applicant said no.

Hash asked that the minutes reflected the question of blasting being asked and answered in the negative for public information.

Krueger and staff discussed if the proposed hours of operation were the standard hours usually applied to gravel pits, the fact there was no standard for hours due to the fact there were different settings and circumstances for each property where the pits were located.

Staff discussed how previous works done to comply with original CUPs on the pit were incorporated into the staff report and conditions of the application before the board.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCU 12-07)**

Krueger made a motion seconded by Hash to adopt staff report FCU 12-07 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FCU 12-07)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APPROVE
(FCU 12-07)**

Krueger made a motion seconded by Hash to approve FCU 12-07 with the statement: FCU 12-07 superseded previous conditional use permits on the property.

**SECONDARY
MOTION
(Strike Condition
#2, Condition
#18, Amend
Condition #9 and
Condition #17)**

Krueger made a motion seconded by Hollinger to strike Condition #2, strike Condition #18, amend Condition #9 by striking '*and general air quality*' from the end of the sentence, and amend Condition # 17 to read "*Hours of operation shall be 7:00 AM to 7:00 PM Monday through Friday and 8:00 AM to 5:00 PM on Saturdays. This would not preclude occasional deviation from this schedule due to extenuating circumstances.*"

**BOARD
DISCUSSION**

Hash and Krueger discussed the reasons for striking condition #2 which included the fact it was unenforceable, the wording was not how air quality was discussed in the air quality regulations, and how the board dealt with land use and impacts to the neighboring properties. They also debated if the board was

changing conditions which had not been properly noticed to the public so the public had not had a chance to comment and how to condition air quality.

**ROLL CALL
VOTE TO
(Strike Condition
#2, Condition
#18, Amend
Condition #9 and
Condition #17)**

On a roll call vote, the motion passed unanimously.

**BOARD
DISCUSSION**

None.

**ROLL CALL
VOTE TO
APPROVE
(FCU 12-09)**

On a roll call vote, the motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Hollinger asked for clarification on reading material Klempel handed out to the board regarding impacts from home based businesses which had impacts on the environment.

Grieve said the issue of impacts from home based businesses would be taken under consideration for future text amendments. He talked about multiple primary uses in zoning and the variables involved and the standards for home occupations. He reviewed the options for addressing those issues.

Klempel said it wasn't possible to patrol if the CUP holder was doing what they were supposed to be doing but there should be a way to make the CUP no longer operative if they weren't. There should be a way to look at impacts for smaller businesses.

Hogle asked for clarification on Krueger's amendments especially concerning the hours of operation for FCU 12-07.

The board complemented Mack on his staff report and presentation.

ADJOURNMENT The meeting was adjourned at approximately 7:50 pm. on a motion by Hollinger. The next meeting will be held at 6:00 p.m. on December 4, 2012.

Scott Hollinger, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 1 / 8 / 13*